

IN THE CIRCUIT COURT OF JACKSON COUNTY, MISSISSIPPI

DERRICK TAITE

FILED
MAY 22 2015

PLAINTIFF

VERSUS

JOE W. MARTIN, JR. CLERK

BY Richard D.C.

CIVIL ACTION NO. 2015-0910731

WAL-MART STORES EAST, L.P.
AND JOHN OR JANE DOES I - IV

DEFENDANTS

COMPLAINT

JURY TRIAL DEMANDED

COMES NOW, the Plaintiff, DERRICK TAITE, by and through his attorney of record, Douglas L. Tynes, Jr., and files this his Complaint, and would respectfully show unto this Honorable Court as follows, to-wit:

1. This Court has jurisdiction of this civil action and proper venue has been laid.

I. PARTIES

2. The Plaintiff, Derrick Taite, is an adult resident citizen of Jackson County, Mississippi, residing at 4419 Donovan Street, Moss Point, Mississippi.

3. The Defendant, WAL-MART STORES EAST, LP., is a foreign corporation organized and existing under the laws of Delaware and registered to do business in the State of Mississippi, with its principal office and place of business located at 702 SW 8th Street Bentonville, Arkansas 72716, and which may be served with process on its registered agent for service of process in the State of Mississippi, said registered agent being C.T. Corporation System located at 645 Lakeland East Drive, Suite 101, Flowood, MS 39232.

4. Defendants, JOHN DOES I through V, represent unknown and unnamed Defendants in the above referenced matter whose identity may become known to the Plaintiff through this litigation.

II. FACTS

5. Plaintiff would show that on or about September 17, 2013, in Pascagoula, Mississippi, the Plaintiff, DERRICK TAITE, was an invitee of the Defendant, WAL-MART STORES EAST, LP, in so much as he went upon the Defendant's premises in answer to the express or implied invitation of the Defendant for the use of the store services provided by the Defendant.

6. That the Plaintiff was shopping in Defendant, Wal-Mart Stores East, LP's store number 1066 located in Pascagoula, Mississippi, and as Plaintiff was walking down the aisle in the freezer section, he slipped on ice water coming out of a freezer and hit his back on the freezer, which caused injury to the Plaintiff. There was no sign to indicate that the floor was wet or to warn customers in the store to exercise caution in the area of the freezer. Plaintiff was transported to Singing River Hospital emergency room by ambulance where he received treatment for his injuries.

7. Plaintiff would show that he has been severely injured, and he sustained damages for which he is entitled to recover of and from the Defendants.

III. CLAIMS FOR RELIEF

COUNT I:

BREACH OF DUTY AGAINST THE DEFENDANT

8. Plaintiff adopts, re-alleges and incorporates by reference each and every allegation contained in paragraphs 1 through 7 in their entirety as though fully copied and stated herein.

9. Plaintiff would show that Defendant, Wal-Mart Stores East, LP, owed a duty to Plaintiff to exercise reasonable care to keep the premises in a reasonably safe condition, and to

warn the Plaintiff of dangerous conditions not readily apparent to the Plaintiff, but which the Defendant knew or should have known about through the exercise of reasonable care.

10. Plaintiff would alleged that the Defendant breached its duty to keep the premises in a reasonably safe condition for its patrons, including the Plaintiff, and to warn the Plaintiff of dangerous conditions not readily apparent to the Plaintiff, but which the Defendant knew or should have known in the exercise of reasonable care.

11. Plaintiff would allege that the Defendant knew or should have known that the area in which the Plaintiff was injured was unsafe.

COUNT II:

**GENERAL NEGLIGENCE AGAINST THE DEFENDANT,
GROSS NEGLIGENCE, WANTON OR RECKLESS DISREGARD**

12. Plaintiff adopts, re-alleges and incorporates by reference each and every allegation contained in paragraphs 1 through 11 in their entirety as though fully copied and stated herein.

13. Plaintiff would should that Defendant, Wal-Mart Stores East, LP's, negligence, recklessness, carelessness, and/or gross negligence evidencing a willful, wanton, or reckless disregard for the safety of others which consisted of, but is not necessarily limited to, the following facts or omissions:

- A. Failure of the Defendant to exercise reasonable care to keep the premises in a reasonably safe condition;
- B. Failure to warn Plaintiff of dangerous conditions not readily apparent to Plaintiff, but which the Defendant knew or should have known in the exercise of reasonable care;

- C. Failure to properly maintain the area before allowing its patrons to enter; and
- D. Other acts or omissions that will be shown at the trial of this cause.

14. Such acts and omissions by Defendant, Wal-Mart Stores East, LP, were a direct and proximate cause of the Plaintiff's fall in question and a direct and proximate cause of the injuries to the Plaintiff.

15. Further, your would show that the Defendant's acts and omissions constitute gross negligence which evidences a willful, wanton or reckless disregard for the safety of others, thus entitling your Plaintiff to an award of punitive damages.

16. Plaintiff has suffered and continues to suffer injuries and damages as a direct and proximate result of the negligence, recklessness, carelessness and/or gross negligence of the Defendant.

17. But for the Defendant's acts of negligence, recklessness, carelessness, and/or gross negligence, described in the above paragraphs, the Plaintiff would not have suffered and continue to suffer the injuries and damages complained of herein. The negligent, recklessness, careless, and/or grossly negligent conduct of the Defendant discussed herein above, were the proximate and/or contributing causes of the injuries suffered by the Plaintiff.

18. Your Plaintiff would show that as a direct and proximate result of the negligence, recklessness, carelessness, and/or gross negligence of the Defendant and/or its agents employees, and representatives, he was severely injured, and sustained personal injury, suffered physical pain and suffering, mental pain and suffering and incurred certain expenditures and obligations for medical expenses for which he is entitled to recover as damages as will be shown by great proof at the trial of this cause.

19. Your Plaintiff has incurred medical bills and may continue to need reasonable and necessary medical treatment for which he is entitled to recover of and from the Defendant.

20. Your Plaintiff would show specifically that he is entitled to all damages afforded him under the Laws of the State of Mississippi, including but not limited to medical, hospital, drugs, and all allied health expenses, physical and mental pain and suffering, together with all penalties and interest which may be applicable. Your Plaintiff would show other damages and injuries to be shown at the trial of this matter.

21. Your Plaintiff would show that the acts and omissions of the Defendant, Wal-Mart Stores East, LP, are so grossly negligent as to constitute a willful, wanton, or reckless, disregard for the safety of others, for which punitive damages must be assessed against the Defendant to deter future such acts as herein described.

COUNT III:

NEGLIGENT INFLICTION OF EMOTIONAL DISTRESS AND PAIN AND SUFFERING

22. Plaintiff adopts, re-alleges and incorporates by reference each and every allegation contained in paragraphs 1 through 21 in their entirety as though fully copied and stated herein.

23. As a direct result of the Defendant, Wal-Mart Stores East, LP's, negligent acts in its failure to maintain a safe, hazard free floor for its invitees use, Plaintiff has suffered the following damages:

- A. Plaintiff suffered the fall and injury in the Defendant's premises;
- B. Plaintiff has endured emotional distress since the date of the incident.
- C. Plaintiff suffered back injuries, along with other injuries to his person;

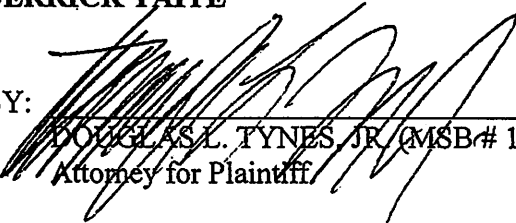
- D. Past, present, and future physical pain and suffering which is grievous;
- E. Loss of wages; and
- F. Hospital bills, doctor bills, and other medical and medically related expenses which have been incurred.

WHEREFORE, PREMISES CONSIDERED, the Plaintiff, DERRICK TAITE, prays that his Complaint be received, filed, and served on the Defendant herein. Plaintiff further requests a jury trial and after said trial, requests a judgment be entered against the Defendant, WAL-MART STORES EAST, LP and JOHN OR JANE DOES I through V, for an amount in excess of \$200,000.00 of this Court, for any and all actual, compensatory, and punitive damages as a result of Defendants' negligence, recklessness, carelessness, and/or gross negligence, emotional distress, together with interest from the date of the accident, attorney's fees and all costs of court to accrue to be determined at a trial hereon; and

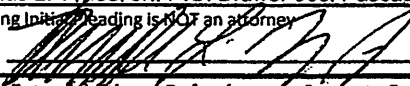
Petitioner prays for such other, further and/or more general relief to which he may be entitled.

DATE: May 22, 2015.

Respectfully submitted,
DERRICK TAITE

BY: 
DOUGLAS L. TYNES, JR. (MSB# 101921)
Attorney for Plaintiff

Tynes Law Firm, PA
525 Krebs Avenue (39567)
Post Office Drawer 966
Pascagoula, MS 39568-0966
(228) 769-7736 Telephone
(228) 769-8466 Facsimile
monte@tyneslawfirm.com

COVER SHEET		Court Identification Docket #		Case Year	Docket Number
Civil Case Filing Form (To be completed by Attorney/Party Prior to Filing of Pleading)		<div style="border: 1px solid black; padding: 2px;">30</div> County #	<div style="border: 1px solid black; padding: 2px;">41</div> Judicial District	<div style="border: 1px solid black; padding: 2px;">2015</div> Court ID (CH, CI, CO)	<div style="border: 1px solid black; padding: 2px;">00107</div> Local Docket ID
Mississippi Supreme Court Administrative Office of Courts		Form AOC/01 (Rev 2009)		This area to be completed by clerk	
In the <u>CIRCUIT</u>		Court of <u>JACKSON</u>		County <u>—</u>	Judicial District <u>—</u>
Origin of Suit (Place an "X" in one box only)					
<input checked="" type="checkbox"/> Initial Filing <input type="checkbox"/> Reinstated <input type="checkbox"/> Foreign Judgment Enrolled <input type="checkbox"/> Transfer from Other court <input type="checkbox"/> Other <input type="checkbox"/> Remanded <input type="checkbox"/> Reopened <input type="checkbox"/> Joining Suit/Action <input type="checkbox"/> Appeal					
Plaintiff - Party(ies) Initially Bringing Suit Should Be Entered First - Enter Additional Plaintiffs on Separate Form					
Individual <u>TAITE</u> <u>DERRICK</u> <div style="display: flex; justify-content: space-between;"> Last Name First Name Maiden Name, if applicable M.I. Jr/Sr/III/IV </div>					
<input type="checkbox"/> Check (x) if Individual Plaintiff is acting in capacity as Executor(trix) or Administrator(trix) of an Estate, and enter style: _____ Estate of _____					
<input type="checkbox"/> Check (x) if Individual Plaintiff is acting in capacity as Business Owner/Operator (d/b/a) or State Agency, and enter entity: _____ D/B/A or Agency _____					
Business Enter legal name of business, corporation, partnership, agency - If Corporation, indicate the state where incorporated <input type="checkbox"/> Check (x) if Business Plaintiff is filing suit in the name of an entity other than the above, and enter below: _____ D/B/A _____					
Address of Plaintiff _____					
Attorney (Name & Address) <u>Douglas L. Types, Jr., P.O. Drawer 966, Pascagoula, MS 39568-0966</u> MS Bar No. <u>101921</u>					
<input type="checkbox"/> Check (x) if Individual Filing Initial Pleading is NOT an attorney					
Signature of Individual Filing: 					
Defendant - Name of Defendant - Enter Additional Defendants on Separate Form					
Individual _____ <div style="display: flex; justify-content: space-between;"> Last Name First Name Maiden Name, if applicable M.I. Jr/Sr/III/IV </div>					
<input type="checkbox"/> Check (x) if Individual Defendant is acting in capacity as Executor(trix) or Administrator(trix) of an Estate, and enter style: _____ Estate of _____					
<input type="checkbox"/> Check (x) if Individual Defendant is acting in capacity as Business Owner/Operator (d/b/a) or State Agency, and enter entity: _____ D/B/A or Agency _____					
Business <u>WAL-MART STORES EAST, LP</u> Enter legal name of business, corporation, partnership, agency - If Corporation, indicate the state where incorporated <input type="checkbox"/> Check (x) if Business Defendant is acting in the name of an entity other than the above, and enter below: _____ D/B/A _____					
Attorney (Name & Address) - If Known _____ MS Bar No. _____					
Damages Sought: Compensatory \$ <u>200,000 +</u> Punitive \$ <u>To be determined</u> <input type="checkbox"/> Check (x) if child support is contemplated as an issue in this suit.* *If checked, please submit completed Child Support Information Sheet with this Cover Sheet					
Nature of Suit (Place an "X" in one box only)					
Domestic Relations <input type="checkbox"/> Child Custody/Visitation <input type="checkbox"/> Child Support <input type="checkbox"/> Contempt <input type="checkbox"/> Divorce: Fault <input type="checkbox"/> Divorce: Irreconcilable Diff. <input type="checkbox"/> Domestic Abuse <input type="checkbox"/> Emancipation <input type="checkbox"/> Modification <input type="checkbox"/> Paternity <input type="checkbox"/> Property Division <input type="checkbox"/> Separate Maintenance <input type="checkbox"/> Termination of Parental Rights <input type="checkbox"/> UIFSA (eff 7/1/97; formerly URESA) <input type="checkbox"/> Other _____ Appeals <input type="checkbox"/> Administrative Agency <input type="checkbox"/> County Court <input type="checkbox"/> Hardship Petition (Driver License) <input type="checkbox"/> Justice Court <input type="checkbox"/> MS Dept Employment Security <input type="checkbox"/> Worker's Compensation <input type="checkbox"/> Other _____	Business/Commercial <input type="checkbox"/> Accounting (Business) <input type="checkbox"/> Business Dissolution <input type="checkbox"/> Debt Collection <input type="checkbox"/> Employment <input type="checkbox"/> Foreign Judgment <input type="checkbox"/> Garnishment <input type="checkbox"/> Replevin <input type="checkbox"/> Other _____ Probate <input type="checkbox"/> Accounting (Probate) <input type="checkbox"/> Birth Certificate Correction <input type="checkbox"/> Commitment <input type="checkbox"/> Conservatorship <input type="checkbox"/> Guardianship <input type="checkbox"/> Heirship <input type="checkbox"/> Intestate Estate <input type="checkbox"/> Minor's Settlement <input type="checkbox"/> Muniment of Title <input type="checkbox"/> Name Change <input type="checkbox"/> Testate Estate <input type="checkbox"/> Will Contest <input type="checkbox"/> Other _____	Children/Minors - Non-Domestic <input type="checkbox"/> Adoption - Contested <input type="checkbox"/> Adoption - Uncontested <input type="checkbox"/> Consent to Abortion Minor <input type="checkbox"/> Removal of Minority <input type="checkbox"/> Other _____ Civil Rights <input type="checkbox"/> Elections <input type="checkbox"/> Expungement <input type="checkbox"/> Habeas Corpus <input type="checkbox"/> Post Conviction Relief/Prisoner <input type="checkbox"/> Other _____ Contract <input type="checkbox"/> Breach of Contract <input type="checkbox"/> Installment Contract <input type="checkbox"/> Insurance <input type="checkbox"/> Specific Performance <input type="checkbox"/> Other _____ Statutes/Rules <input type="checkbox"/> Bond Validation <input type="checkbox"/> Civil Forfeiture <input type="checkbox"/> Declaratory Judgment <input type="checkbox"/> Injunction or Restraining Order <input type="checkbox"/> Other _____	Real Property <input type="checkbox"/> Adverse Possession <input type="checkbox"/> Ejectment <input type="checkbox"/> Eminent Domain <input type="checkbox"/> Eviction <input type="checkbox"/> Judicial Foreclosure <input type="checkbox"/> Lien Assertion <input type="checkbox"/> Partition <input type="checkbox"/> Tax Sale: Confirm/Cancel <input type="checkbox"/> Title Boundary or Easement <input type="checkbox"/> Other _____ Torts <input type="checkbox"/> Bad Faith <input type="checkbox"/> Fraud <input type="checkbox"/> Loss of Consortium <input type="checkbox"/> Malpractice - Legal <input type="checkbox"/> Malpractice - Medical <input type="checkbox"/> Mass Tort <input checked="" type="checkbox"/> Negligence - General <input type="checkbox"/> Negligence - Motor Vehicle <input type="checkbox"/> Product Liability <input type="checkbox"/> Subrogation <input type="checkbox"/> Wrongful Death <input type="checkbox"/> Other _____		

COPY

IN THE CIRCUIT COURT OF JACKSON COUNTY, MISSISSIPPI

DERRICK TAITE

PLAINTIFF

VERSUS

CIVIL ACTION NO. 2015-001073

WAL-MART STORES EAST, L.P.
AND JOHN OR JANE DOES I - IV

DEFENDANTS

SUMMONS

CERTIFIED A TRUE COPY
Jackson County, Mississippi
Joe W. Martin, Jr., Circuit Clerk

THE STATE OF MISSISSIPPI

This the 18 day of June 2015
By Theron D. Martin D.C.

TO: **WAL-MART STORES EAST, LP**

By and through its registered agent, C.T. Corporation System
645 Lakeland East Drive, Suite 101
Flowood MS 39232

**THE COMPLAINT WHICH IS ATTACHED TO THIS SUMMONS IS IMPORTANT
AND YOU MUST TAKE IMMEDIATE ACTION TO PROTECT YOUR RIGHTS.**

You are required to mail or hand-deliver a copy of a written response to the Complaint to DOUGLAS L. TYNES, JR., the attorney for the Plaintiff, whose post office address is Post Office Drawer 966, Pascagoula, Mississippi 39568-0966, and whose street address is 525 Krebs Avenue, Pascagoula, Mississippi. Your response must be mailed or delivered within (30) days from the date of delivery of this summons and complaint or a judgment by default will be entered against you for the money or other things demanded in the complaint.

You must also file the original of your response with the Clerk of this Court within a reasonable time afterward.

Issued under my hand and the seal of said Court, this the 28th day of May, 2015.

JOE MARTIN, Circuit Clerk
Jackson County, Mississippi

Michelle Wilson
Deputy Clerk

(Seal)